



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5565

Introduced 1/27/2006, by Rep. Naomi D. Jakobsson

SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-6	from Ch. 38, par. 11-6
720 ILCS 5/11-6.5	
720 ILCS 5/32-10	from Ch. 38, par. 32-10
730 ILCS 5/5-5-6	from Ch. 38, par. 1005-5-6
730 ILCS 5/5-6-3.1	from Ch. 38, par. 1005-6-3.1
730 ILCS 5/5-8-1	from Ch. 38, par. 1005-8-1
705 ILCS 405/2-13.1	
720 ILCS 5/12-3.2	from Ch. 38, par. 12-3.2
720 ILCS 5/12-30	from Ch. 38, par. 12-30
720 ILCS 135/2	from Ch. 134, par. 16.5
725 ILCS 5/115-7	from Ch. 38, par. 115-7
725 ILCS 5/115-10.2	
750 ILCS 50/1	from Ch. 40, par. 1501

Amends the Juvenile Court Act of 1987 and the Adoption Act. Provides for the termination of parent rights for the commission of various acts against children. Amends the Criminal Code of 1961 and the Unified Code of Corrections. Reenacts various criminal provisions of P.A. 89-203 that were held unconstitutional by the Illinois Supreme Court in *People v. Wooters* as violating the single subject clause of the Illinois Constitution. Amends the Criminal Code of 1961, the Harassing and Obscene Communications Act, and the Code of Criminal Procedure of 1963. Changes the elements of the offenses of domestic battery, violation of an order of protection, and harassing and obscene communications. Makes other changes.

LRB094 18455 RLC 53770 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning domestic violence.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 ARTICLE 1. REENACTMENT

5 Section 1-1. Purpose.

6 (1) The General Assembly finds and declares that:

7 (i) Public Act 89-203, effective July 21, 1995,
8 contained provisions amending the Criminal Code of 1961,
9 and the Unified Code of Corrections. Public Act 89-203 also
10 contained other provisions, including revisions to the
11 Vehicle Code, the Counties Code, and the Code of Civil
12 Procedure.

13 (ii) On November 18, 1999, the Illinois Supreme Court,
14 in *People v. Wooters*, 1999, 243 Ill. Dec. 33, 188 Ill.2d
15 500, 722 N.E.2d 1102 ruled that Public Act 89-203 violates
16 the single subject clause of the Illinois Constitution
17 (Article IV, Section 8 (d)) and was unconstitutional in its
18 entirety.

19 (iii) The provisions of Public Act 89-203 amending the
20 Criminal Code of 1961 and the Unified Code of Corrections
21 are of vital concern to the people of this State and
22 legislative action concerning those provisions of Public
23 Act 89-203 is necessary.

24 (2) One of the purposes of this Act is to re-enact
25 certain criminal provisions of Public Act 89-203,
26 including subsequent amendments. This re-enactment is
27 intended to remove any question as to the validity or
28 content of those provisions.

29 (3) This Act re-enacts certain criminal provisions
30 of Public Act 89-203, including subsequent amendments,
31 to remove any question as to the validity or content of
32 those provisions; it is not intended to supersede any

1 other Public Act that amends the text of the Sections
2 as set forth in this Act. The material is shown as
3 existing text (i.e., without underscoring), except for
4 technical changes having a revisory function.

5 Section 1-5. The Criminal Code of 1961 is amended by
6 reenacting Sections 11-6, 11-6.5, and 32-10 as follows:

7 (720 ILCS 5/11-6) (from Ch. 38, par. 11-6)

8 Sec. 11-6. Indecent solicitation of a child.

9 (a) A person of the age of 17 years and upwards commits the
10 offense of indecent solicitation of a child if the person, with
11 the intent that the offense of aggravated criminal sexual
12 assault, criminal sexual assault, predatory criminal sexual
13 assault of a child, or aggravated criminal sexual abuse be
14 committed, knowingly solicits a child or one whom he or she
15 believes to be a child to perform an act of sexual penetration
16 or sexual conduct as defined in Section 12-12 of this Code.

17 (b) Definitions. As used in this Section:

18 "Solicit" means to command, authorize, urge, incite,
19 request, or advise another to perform an act by any means
20 including, but not limited to, in person, over the phone,
21 in writing, by computer, or by advertisement of any kind.

22 "Child" means a person under 17 years of age.

23 (c) Sentence. Indecent solicitation of a child is:

24 (1) a Class 1 felony when the act, if done, would be
25 predatory criminal sexual assault of a child or aggravated
26 criminal sexual assault;

27 (2) a Class 2 felony when the act, if done, would be
28 criminal sexual assault;

29 (3) a Class 3 felony when the act, if done, would be
30 aggravated criminal sexual abuse.

31 (Source: P.A. 91-226, eff. 7-22-99.)

32 (720 ILCS 5/11-6.5)

33 Sec. 11-6.5. Indecent solicitation of an adult.

1 (a) A person commits indecent solicitation of an adult if
2 the person:

3 (1) Arranges for a person 17 years of age or over to
4 commit an act of sexual penetration as defined in Section
5 12-12 with a person:

6 (i) Under the age of 13 years; or

7 (ii) Thirteen years of age or over but under the
8 age of 17 years; or

9 (2) Arranges for a person 17 years of age or over to
10 commit an act of sexual conduct as defined in Section 12-12
11 with a person:

12 (i) Under the age of 13 years; or

13 (ii) Thirteen years of age or older but under the
14 age of 17 years.

15 (b) Sentence.

16 (1) Violation of paragraph (a)(1)(i) is a Class X
17 felony.

18 (2) Violation of paragraph (a)(1)(ii) is a Class 1
19 felony.

20 (3) Violation of paragraph (a)(2)(i) is a Class 2
21 felony.

22 (4) Violation of paragraph (a)(2)(ii) is a Class A
23 misdemeanor.

24 (c) For the purposes of this Section, "arranges" includes
25 but is not limited to oral or written communication and
26 communication by telephone, computer, or other electronic
27 means. "Computer" has the meaning ascribed to it in Section
28 16D-2 of this Code.

29 (Source: P.A. 88-165; 89-203, eff. 7-21-95.)

30 (720 ILCS 5/32-10) (from Ch. 38, par. 32-10)

31 Sec. 32-10. Violation of bail bond.

32 (a) Whoever, having been admitted to bail for appearance
33 before any court of this State, incurs a forfeiture of the bail
34 and willfully fails to surrender himself within 30 days
35 following the date of such forfeiture, commits, if the bail was

1 given in connection with a charge of felony or pending appeal
2 or certiorari after conviction of any offense, a felony of the
3 next lower Class or a Class A misdemeanor if the underlying
4 offense was a Class 4 felony; or, if the bail was given in
5 connection with a charge of committing a misdemeanor, or for
6 appearance as a witness, commits a misdemeanor of the next
7 lower Class, but not less than a Class C misdemeanor.

8 (a-5) Any person who violates a condition of bail bond by
9 possessing a firearm in violation of his or her conditions of
10 bail commits a Class 4 felony for a first violation and a Class
11 3 felony for a second violation.

12 (b) Whoever, having been admitted to bail for appearance
13 before any court of this State, while charged with a criminal
14 offense in which the victim is a family or household member as
15 defined in Article 112A of the Code of Criminal Procedure of
16 1963, knowingly violates a condition of that release as set
17 forth in Section 110-10, subsection (d) of the Code of Criminal
18 Procedure of 1963, commits a Class A misdemeanor.

19 (c) Whoever, having been admitted to bail for appearance
20 before any court of this State for a felony, Class A
21 misdemeanor or a criminal offense in which the victim is a
22 family or household member as defined in Article 112A of the
23 Code of Criminal Procedure of 1963, is charged with any other
24 felony, Class A misdemeanor, or a criminal offense in which the
25 victim is a family or household member as defined in Article
26 112A of the Code of Criminal Procedure of 1963 while on such
27 release, must appear before the court before bail is
28 statutorily set.

29 (d) Nothing in this Section shall interfere with or prevent
30 the exercise by any court of its power to punishment for
31 contempt. Any sentence imposed for violation of this Section
32 shall be served consecutive to the sentence imposed for the
33 charge for which bail had been granted and with respect to
34 which the defendant has been convicted.

35 (Source: P.A. 91-696, eff. 4-13-00.)

1 Section 1-10. The Unified Code of Corrections is amended by
2 reenacting Sections 5-5-6, 5-6-3.1, and 5-8-1 as follows:

3 (730 ILCS 5/5-5-6) (from Ch. 38, par. 1005-5-6)

4 Sec. 5-5-6. In all convictions for offenses in violation of
5 the Criminal Code of 1961 in which the person received any
6 injury to their person or damage to their real or personal
7 property as a result of the criminal act of the defendant, the
8 court shall order restitution as provided in this Section. In
9 all other cases, except cases in which restitution is required
10 under this Section, the court must at the sentence hearing
11 determine whether restitution is an appropriate sentence to be
12 imposed on each defendant convicted of an offense. If the court
13 determines that an order directing the offender to make
14 restitution is appropriate, the offender may be sentenced to
15 make restitution. The court may consider restitution an
16 appropriate sentence to be imposed on each defendant convicted
17 of an offense in addition to a sentence of imprisonment. The
18 sentence of the defendant to a term of imprisonment is not a
19 mitigating factor that prevents the court from ordering the
20 defendant to pay restitution. If the offender is sentenced to
21 make restitution the Court shall determine the restitution as
22 hereinafter set forth:

23 (a) At the sentence hearing, the court shall determine
24 whether the property may be restored in kind to the
25 possession of the owner or the person entitled to
26 possession thereof; or whether the defendant is possessed
27 of sufficient skill to repair and restore property damaged;
28 or whether the defendant should be required to make
29 restitution in cash, for out-of-pocket expenses, damages,
30 losses, or injuries found to have been proximately caused
31 by the conduct of the defendant or another for whom the
32 defendant is legally accountable under the provisions of
33 Article V of the Criminal Code of 1961.

34 (b) In fixing the amount of restitution to be paid in
35 cash, the court shall allow credit for property returned in

1 kind, for property damages ordered to be repaired by the
2 defendant, and for property ordered to be restored by the
3 defendant; and after granting the credit, the court shall
4 assess the actual out-of-pocket expenses, losses, damages,
5 and injuries suffered by the victim named in the charge and
6 any other victims who may also have suffered out-of-pocket
7 expenses, losses, damages, and injuries proximately caused
8 by the same criminal conduct of the defendant, and
9 insurance carriers who have indemnified the named victim or
10 other victims for the out-of-pocket expenses, losses,
11 damages, or injuries, provided that in no event shall
12 restitution be ordered to be paid on account of pain and
13 suffering. If a defendant is placed on supervision for, or
14 convicted of, domestic battery, the defendant shall be
15 required to pay restitution to any domestic violence
16 shelter in which the victim and any other family or
17 household members lived because of the domestic battery.
18 The amount of the restitution shall equal the actual
19 expenses of the domestic violence shelter in providing
20 housing and any other services for the victim and any other
21 family or household members living at the shelter. If a
22 defendant fails to pay restitution in the manner or within
23 the time period specified by the court, the court may enter
24 an order directing the sheriff to seize any real or
25 personal property of a defendant to the extent necessary to
26 satisfy the order of restitution and dispose of the
27 property by public sale. All proceeds from such sale in
28 excess of the amount of restitution plus court costs and
29 the costs of the sheriff in conducting the sale shall be
30 paid to the defendant. The defendant convicted of domestic
31 battery, if a person under 18 years of age was present and
32 witnessed the domestic battery of the victim, is liable to
33 pay restitution for the cost of any counseling required for
34 the child at the discretion of the court.

35 (c) In cases where more than one defendant is
36 accountable for the same criminal conduct that results in

1 out-of-pocket expenses, losses, damages, or injuries, each
2 defendant shall be ordered to pay restitution in the amount
3 of the total actual out-of-pocket expenses, losses,
4 damages, or injuries to the victim proximately caused by
5 the conduct of all of the defendants who are legally
6 accountable for the offense.

7 (1) In no event shall the victim be entitled to
8 recover restitution in excess of the actual
9 out-of-pocket expenses, losses, damages, or injuries,
10 proximately caused by the conduct of all of the
11 defendants.

12 (2) As between the defendants, the court may
13 apportion the restitution that is payable in
14 proportion to each co-defendant's culpability in the
15 commission of the offense.

16 (3) In the absence of a specific order apportioning
17 the restitution, each defendant shall bear his pro rata
18 share of the restitution.

19 (4) As between the defendants, each defendant
20 shall be entitled to a pro rata reduction in the total
21 restitution required to be paid to the victim for
22 amounts of restitution actually paid by co-defendants,
23 and defendants who shall have paid more than their pro
24 rata share shall be entitled to refunds to be computed
25 by the court as additional amounts are paid by
26 co-defendants.

27 (d) In instances where a defendant has more than one
28 criminal charge pending against him in a single case, or
29 more than one case, and the defendant stands convicted of
30 one or more charges, a plea agreement negotiated by the
31 State's Attorney and the defendants may require the
32 defendant to make restitution to victims of charges that
33 have been dismissed or which it is contemplated will be
34 dismissed under the terms of the plea agreement, and under
35 the agreement, the court may impose a sentence of
36 restitution on the charge or charges of which the defendant

1 has been convicted that would require the defendant to make
2 restitution to victims of other offenses as provided in the
3 plea agreement.

4 (e) The court may require the defendant to apply the
5 balance of the cash bond, after payment of court costs, and
6 any fine that may be imposed to the payment of restitution.

7 (f) Taking into consideration the ability of the
8 defendant to pay, including any real or personal property
9 or any other assets of the defendant, the court shall
10 determine whether restitution shall be paid in a single
11 payment or in installments, and shall fix a period of time
12 not in excess of 5 years or the period of time specified in
13 subsection (f-1), not including periods of incarceration,
14 within which payment of restitution is to be paid in full.
15 Complete restitution shall be paid in as short a time
16 period as possible. However, if the court deems it
17 necessary and in the best interest of the victim, the court
18 may extend beyond 5 years the period of time within which
19 the payment of restitution is to be paid. If the defendant
20 is ordered to pay restitution and the court orders that
21 restitution is to be paid over a period greater than 6
22 months, the court shall order that the defendant make
23 monthly payments; the court may waive this requirement of
24 monthly payments only if there is a specific finding of
25 good cause for waiver.

26 (f-1) (1) In addition to any other penalty prescribed by
27 law and any restitution ordered under this Section that did
28 not include long-term physical health care costs, the court
29 may, upon conviction of any misdemeanor or felony, order a
30 defendant to pay restitution to a victim in accordance with
31 the provisions of this subsection (f-1) if the victim has
32 suffered physical injury as a result of the offense that is
33 reasonably probable to require or has required long-term
34 physical health care for more than 3 months. As used in
35 this subsection (f-1) "long-term physical health care"
36 includes mental health care.

1 (2) The victim's estimate of long-term physical health
2 care costs may be made as part of a victim impact statement
3 under Section 6 of the Rights of Crime Victims and
4 Witnesses Act or made separately. The court shall enter the
5 long-term physical health care restitution order at the
6 time of sentencing. An order of restitution made under this
7 subsection (f-1) shall fix a monthly amount to be paid by
8 the defendant for as long as long-term physical health care
9 of the victim is required as a result of the offense. The
10 order may exceed the length of any sentence imposed upon
11 the defendant for the criminal activity. The court shall
12 include as a special finding in the judgment of conviction
13 its determination of the monthly cost of long-term physical
14 health care.

15 (3) After a sentencing order has been entered, the
16 court may from time to time, on the petition of either the
17 defendant or the victim, or upon its own motion, enter an
18 order for restitution for long-term physical care or modify
19 the existing order for restitution for long-term physical
20 care as to the amount of monthly payments. Any modification
21 of the order shall be based only upon a substantial change
22 of circumstances relating to the cost of long-term physical
23 health care or the financial condition of either the
24 defendant or the victim. The petition shall be filed as
25 part of the original criminal docket.

26 (g) In addition to the sentences provided for in
27 Sections 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-15,
28 and 12-16 of the Criminal Code of 1961, the court may order
29 any person who is convicted of violating any of those
30 Sections or who was charged with any of those offenses and
31 which charge was reduced to another charge as a result of a
32 plea agreement under subsection (d) of this Section to meet
33 all or any portion of the financial obligations of
34 treatment, including but not limited to medical,
35 psychiatric, or rehabilitative treatment or psychological
36 counseling, prescribed for the victim or victims of the

1 offense.

2 The payments shall be made by the defendant to the
3 clerk of the circuit court and transmitted by the clerk to
4 the appropriate person or agency as directed by the court.
5 Except as otherwise provided in subsection (f-1), the order
6 may require such payments to be made for a period not to
7 exceed 5 years after sentencing, not including periods of
8 incarceration.

9 (h) The judge may enter an order of withholding to
10 collect the amount of restitution owed in accordance with
11 Part 8 of Article XII of the Code of Civil Procedure.

12 (i) A sentence of restitution may be modified or
13 revoked by the court if the offender commits another
14 offense, or the offender fails to make restitution as
15 ordered by the court, but no sentence to make restitution
16 shall be revoked unless the court shall find that the
17 offender has had the financial ability to make restitution,
18 and he has wilfully refused to do so. When the offender's
19 ability to pay restitution was established at the time an
20 order of restitution was entered or modified, or when the
21 offender's ability to pay was based on the offender's
22 willingness to make restitution as part of a plea agreement
23 made at the time the order of restitution was entered or
24 modified, there is a rebuttable presumption that the facts
25 and circumstances considered by the court at the hearing at
26 which the order of restitution was entered or modified
27 regarding the offender's ability or willingness to pay
28 restitution have not materially changed. If the court shall
29 find that the defendant has failed to make restitution and
30 that the failure is not wilful, the court may impose an
31 additional period of time within which to make restitution.
32 The length of the additional period shall not be more than
33 2 years. The court shall retain all of the incidents of the
34 original sentence, including the authority to modify or
35 enlarge the conditions, and to revoke or further modify the
36 sentence if the conditions of payment are violated during

1 the additional period.

2 (j) The procedure upon the filing of a Petition to
3 Revoke a sentence to make restitution shall be the same as
4 the procedures set forth in Section 5-6-4 of this Code
5 governing violation, modification, or revocation of
6 Probation, of Conditional Discharge, or of Supervision.

7 (k) Nothing contained in this Section shall preclude
8 the right of any party to proceed in a civil action to
9 recover for any damages incurred due to the criminal
10 misconduct of the defendant.

11 (l) Restitution ordered under this Section shall not be
12 subject to disbursement by the circuit clerk under Section
13 27.5 of the Clerks of Courts Act.

14 (m) A restitution order under this Section is a
15 judgment lien in favor of the victim that:

16 (1) Attaches to the property of the person subject
17 to the order;

18 (2) May be perfected in the same manner as provided
19 in Part 3 of Article 9 of the Uniform Commercial Code;

20 (3) May be enforced to satisfy any payment that is
21 delinquent under the restitution order by the person in
22 whose favor the order is issued or the person's
23 assignee; and

24 (4) Expires in the same manner as a judgment lien
25 created in a civil proceeding.

26 When a restitution order is issued under this Section,
27 the issuing court shall send a certified copy of the order
28 to the clerk of the circuit court in the county where the
29 charge was filed. Upon receiving the order, the clerk shall
30 enter and index the order in the circuit court judgment
31 docket.

32 (n) An order of restitution under this Section does not
33 bar a civil action for:

34 (1) Damages that the court did not require the
35 person to pay to the victim under the restitution order
36 but arise from an injury or property damages that is

1 the basis of restitution ordered by the court; and

2 (2) Other damages suffered by the victim.

3 The restitution order is not discharged by the completion
4 of the sentence imposed for the offense.

5 A restitution order under this Section is not discharged by
6 the liquidation of a person's estate by a receiver. A
7 restitution order under this Section may be enforced in the
8 same manner as judgment liens are enforced under Article XII of
9 the Code of Civil Procedure.

10 The provisions of Section 2-1303 of the Code of Civil
11 Procedure, providing for interest on judgments, apply to
12 judgments for restitution entered under this Section.

13 (Source: P.A. 94-148, eff. 1-1-06; 94-397, eff. 1-1-06; revised
14 8-19-05.)

15 (730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

16 Sec. 5-6-3.1. Incidents and Conditions of Supervision.

17 (a) When a defendant is placed on supervision, the court
18 shall enter an order for supervision specifying the period of
19 such supervision, and shall defer further proceedings in the
20 case until the conclusion of the period.

21 (b) The period of supervision shall be reasonable under all
22 of the circumstances of the case, but may not be longer than 2
23 years, unless the defendant has failed to pay the assessment
24 required by Section 10.3 of the Cannabis Control Act, Section
25 411.2 of the Illinois Controlled Substances Act, or Section 80
26 of the Methamphetamine Control and Community Protection Act, in
27 which case the court may extend supervision beyond 2 years.
28 Additionally, the court shall order the defendant to perform no
29 less than 30 hours of community service and not more than 120
30 hours of community service, if community service is available
31 in the jurisdiction and is funded and approved by the county
32 board where the offense was committed, when the offense (1) was
33 related to or in furtherance of the criminal activities of an
34 organized gang or was motivated by the defendant's membership
35 in or allegiance to an organized gang; or (2) is a violation of

1 any Section of Article 24 of the Criminal Code of 1961 where a
2 disposition of supervision is not prohibited by Section 5-6-1
3 of this Code. The community service shall include, but not be
4 limited to, the cleanup and repair of any damage caused by
5 violation of Section 21-1.3 of the Criminal Code of 1961 and
6 similar damages to property located within the municipality or
7 county in which the violation occurred. Where possible and
8 reasonable, the community service should be performed in the
9 offender's neighborhood.

10 For the purposes of this Section, "organized gang" has the
11 meaning ascribed to it in Section 10 of the Illinois Streetgang
12 Terrorism Omnibus Prevention Act.

13 (c) The court may in addition to other reasonable
14 conditions relating to the nature of the offense or the
15 rehabilitation of the defendant as determined for each
16 defendant in the proper discretion of the court require that
17 the person:

18 (1) make a report to and appear in person before or
19 participate with the court or such courts, person, or
20 social service agency as directed by the court in the order
21 of supervision;

22 (2) pay a fine and costs;

23 (3) work or pursue a course of study or vocational
24 training;

25 (4) undergo medical, psychological or psychiatric
26 treatment; or treatment for drug addiction or alcoholism;

27 (5) attend or reside in a facility established for the
28 instruction or residence of defendants on probation;

29 (6) support his dependents;

30 (7) refrain from possessing a firearm or other
31 dangerous weapon;

32 (8) and in addition, if a minor:

33 (i) reside with his parents or in a foster home;

34 (ii) attend school;

35 (iii) attend a non-residential program for youth;

36 (iv) contribute to his own support at home or in a

1 foster home; or

2 (v) with the consent of the superintendent of the
3 facility, attend an educational program at a facility
4 other than the school in which the offense was
5 committed if he or she is placed on supervision for a
6 crime of violence as defined in Section 2 of the Crime
7 Victims Compensation Act committed in a school, on the
8 real property comprising a school, or within 1,000 feet
9 of the real property comprising a school;

10 (9) make restitution or reparation in an amount not to
11 exceed actual loss or damage to property and pecuniary loss
12 or make restitution under Section 5-5-6 to a domestic
13 violence shelter. The court shall determine the amount and
14 conditions of payment;

15 (10) perform some reasonable public or community
16 service;

17 (11) comply with the terms and conditions of an order
18 of protection issued by the court pursuant to the Illinois
19 Domestic Violence Act of 1986 or an order of protection
20 issued by the court of another state, tribe, or United
21 States territory. If the court has ordered the defendant to
22 make a report and appear in person under paragraph (1) of
23 this subsection, a copy of the order of protection shall be
24 transmitted to the person or agency so designated by the
25 court;

26 (12) reimburse any "local anti-crime program" as
27 defined in Section 7 of the Anti-Crime Advisory Council Act
28 for any reasonable expenses incurred by the program on the
29 offender's case, not to exceed the maximum amount of the
30 fine authorized for the offense for which the defendant was
31 sentenced;

32 (13) contribute a reasonable sum of money, not to
33 exceed the maximum amount of the fine authorized for the
34 offense for which the defendant was sentenced, to a "local
35 anti-crime program", as defined in Section 7 of the
36 Anti-Crime Advisory Council Act;

1 (14) refrain from entering into a designated
2 geographic area except upon such terms as the court finds
3 appropriate. Such terms may include consideration of the
4 purpose of the entry, the time of day, other persons
5 accompanying the defendant, and advance approval by a
6 probation officer;

7 (15) refrain from having any contact, directly or
8 indirectly, with certain specified persons or particular
9 types of person, including but not limited to members of
10 street gangs and drug users or dealers;

11 (16) refrain from having in his or her body the
12 presence of any illicit drug prohibited by the Cannabis
13 Control Act, the Illinois Controlled Substances Act, or the
14 Methamphetamine Control and Community Protection Act,
15 unless prescribed by a physician, and submit samples of his
16 or her blood or urine or both for tests to determine the
17 presence of any illicit drug;

18 (17) refrain from operating any motor vehicle not
19 equipped with an ignition interlock device as defined in
20 Section 1-129.1 of the Illinois Vehicle Code. Under this
21 condition the court may allow a defendant who is not
22 self-employed to operate a vehicle owned by the defendant's
23 employer that is not equipped with an ignition interlock
24 device in the course and scope of the defendant's
25 employment; and

26 (18) if placed on supervision for a sex offense as
27 defined in subsection (a-5) of Section 3-1-2 of this Code,
28 unless the offender is a parent or guardian of the person
29 under 18 years of age present in the home and no
30 non-familial minors are present, not participate in a
31 holiday event involving children under 18 years of age,
32 such as distributing candy or other items to children on
33 Halloween, wearing a Santa Claus costume on or preceding
34 Christmas, being employed as a department store Santa
35 Claus, or wearing an Easter Bunny costume on or preceding
36 Easter.

1 (d) The court shall defer entering any judgment on the
2 charges until the conclusion of the supervision.

3 (e) At the conclusion of the period of supervision, if the
4 court determines that the defendant has successfully complied
5 with all of the conditions of supervision, the court shall
6 discharge the defendant and enter a judgment dismissing the
7 charges.

8 (f) Discharge and dismissal upon a successful conclusion of
9 a disposition of supervision shall be deemed without
10 adjudication of guilt and shall not be termed a conviction for
11 purposes of disqualification or disabilities imposed by law
12 upon conviction of a crime. Two years after the discharge and
13 dismissal under this Section, unless the disposition of
14 supervision was for a violation of Sections 3-707, 3-708,
15 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a
16 similar provision of a local ordinance, or for a violation of
17 Sections 12-3.2 or 16A-3 of the Criminal Code of 1961, in which
18 case it shall be 5 years after discharge and dismissal, a
19 person may have his record of arrest sealed or expunged as may
20 be provided by law. However, any defendant placed on
21 supervision before January 1, 1980, may move for sealing or
22 expungement of his arrest record, as provided by law, at any
23 time after discharge and dismissal under this Section. A person
24 placed on supervision for a sexual offense committed against a
25 minor as defined in subsection (g) of Section 5 of the Criminal
26 Identification Act or for a violation of Section 11-501 of the
27 Illinois Vehicle Code or a similar provision of a local
28 ordinance shall not have his or her record of arrest sealed or
29 expunged.

30 (g) A defendant placed on supervision and who during the
31 period of supervision undergoes mandatory drug or alcohol
32 testing, or both, or is assigned to be placed on an approved
33 electronic monitoring device, shall be ordered to pay the costs
34 incidental to such mandatory drug or alcohol testing, or both,
35 and costs incidental to such approved electronic monitoring in
36 accordance with the defendant's ability to pay those costs. The

1 county board with the concurrence of the Chief Judge of the
2 judicial circuit in which the county is located shall establish
3 reasonable fees for the cost of maintenance, testing, and
4 incidental expenses related to the mandatory drug or alcohol
5 testing, or both, and all costs incidental to approved
6 electronic monitoring, of all defendants placed on
7 supervision. The concurrence of the Chief Judge shall be in the
8 form of an administrative order. The fees shall be collected by
9 the clerk of the circuit court. The clerk of the circuit court
10 shall pay all moneys collected from these fees to the county
11 treasurer who shall use the moneys collected to defray the
12 costs of drug testing, alcohol testing, and electronic
13 monitoring. The county treasurer shall deposit the fees
14 collected in the county working cash fund under Section 6-27001
15 or Section 6-29002 of the Counties Code, as the case may be.

16 (h) A disposition of supervision is a final order for the
17 purposes of appeal.

18 (i) The court shall impose upon a defendant placed on
19 supervision after January 1, 1992 or to community service under
20 the supervision of a probation or court services department
21 after January 1, 2004, as a condition of supervision or
22 supervised community service, a fee of \$50 for each month of
23 supervision or supervised community service ordered by the
24 court, unless after determining the inability of the person
25 placed on supervision or supervised community service to pay
26 the fee, the court assesses a lesser fee. The court may not
27 impose the fee on a minor who is made a ward of the State under
28 the Juvenile Court Act of 1987 while the minor is in placement.
29 The fee shall be imposed only upon a defendant who is actively
30 supervised by the probation and court services department. The
31 fee shall be collected by the clerk of the circuit court. The
32 clerk of the circuit court shall pay all monies collected from
33 this fee to the county treasurer for deposit in the probation
34 and court services fund pursuant to Section 15.1 of the
35 Probation and Probation Officers Act.

36 A circuit court may not impose a probation fee in excess of

1 \$25 per month unless: (1) the circuit court has adopted, by
2 administrative order issued by the chief judge, a standard
3 probation fee guide determining an offender's ability to pay,
4 under guidelines developed by the Administrative Office of the
5 Illinois Courts; and (2) the circuit court has authorized, by
6 administrative order issued by the chief judge, the creation of
7 a Crime Victim's Services Fund, to be administered by the Chief
8 Judge or his or her designee, for services to crime victims and
9 their families. Of the amount collected as a probation fee, not
10 to exceed \$5 of that fee collected per month may be used to
11 provide services to crime victims and their families.

12 (j) All fines and costs imposed under this Section for any
13 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle
14 Code, or a similar provision of a local ordinance, and any
15 violation of the Child Passenger Protection Act, or a similar
16 provision of a local ordinance, shall be collected and
17 disbursed by the circuit clerk as provided under Section 27.5
18 of the Clerks of Courts Act.

19 (k) A defendant at least 17 years of age who is placed on
20 supervision for a misdemeanor in a county of 3,000,000 or more
21 inhabitants and who has not been previously convicted of a
22 misdemeanor or felony may as a condition of his or her
23 supervision be required by the court to attend educational
24 courses designed to prepare the defendant for a high school
25 diploma and to work toward a high school diploma or to work
26 toward passing the high school level Test of General
27 Educational Development (GED) or to work toward completing a
28 vocational training program approved by the court. The
29 defendant placed on supervision must attend a public
30 institution of education to obtain the educational or
31 vocational training required by this subsection (k). The
32 defendant placed on supervision shall be required to pay for
33 the cost of the educational courses or GED test, if a fee is
34 charged for those courses or test. The court shall revoke the
35 supervision of a person who wilfully fails to comply with this
36 subsection (k). The court shall resentence the defendant upon

1 revocation of supervision as provided in Section 5-6-4. This
2 subsection (k) does not apply to a defendant who has a high
3 school diploma or has successfully passed the GED test. This
4 subsection (k) does not apply to a defendant who is determined
5 by the court to be developmentally disabled or otherwise
6 mentally incapable of completing the educational or vocational
7 program.

8 (l) The court shall require a defendant placed on
9 supervision for possession of a substance prohibited by the
10 Cannabis Control Act, the Illinois Controlled Substances Act,
11 or the Methamphetamine Control and Community Protection Act
12 after a previous conviction or disposition of supervision for
13 possession of a substance prohibited by the Cannabis Control
14 Act, the Illinois Controlled Substances Act, or the
15 Methamphetamine Control and Community Protection Act or a
16 sentence of probation under Section 10 of the Cannabis Control
17 Act or Section 410 of the Illinois Controlled Substances Act
18 and after a finding by the court that the person is addicted,
19 to undergo treatment at a substance abuse program approved by
20 the court.

21 (m) The Secretary of State shall require anyone placed on
22 court supervision for a violation of Section 3-707 of the
23 Illinois Vehicle Code or a similar provision of a local
24 ordinance to give proof of his or her financial responsibility
25 as defined in Section 7-315 of the Illinois Vehicle Code. The
26 proof shall be maintained by the individual in a manner
27 satisfactory to the Secretary of State for a minimum period of
28 one year after the date the proof is first filed. The proof
29 shall be limited to a single action per arrest and may not be
30 affected by any post-sentence disposition. The Secretary of
31 State shall suspend the driver's license of any person
32 determined by the Secretary to be in violation of this
33 subsection.

34 (n) Any offender placed on supervision for any offense that
35 the court or probation department has determined to be sexually
36 motivated as defined in the Sex Offender Management Board Act

1 shall be required to refrain from any contact, directly or
2 indirectly, with any persons specified by the court and shall
3 be available for all evaluations and treatment programs
4 required by the court or the probation department.

5 (o) An offender placed on supervision for a sex offense as
6 defined in the Sex Offender Management Board Act shall refrain
7 from residing at the same address or in the same condominium
8 unit or apartment unit or in the same condominium complex or
9 apartment complex with another person he or she knows or
10 reasonably should know is a convicted sex offender or has been
11 placed on supervision for a sex offense. The provisions of this
12 subsection (o) do not apply to a person convicted of a sex
13 offense who is placed in a Department of Corrections licensed
14 transitional housing facility for sex offenders.

15 (Source: P.A. 93-475, eff. 8-8-03; 93-970, eff. 8-20-04;
16 94-159, eff. 7-11-05; 94-161, eff. 7-11-05; 94-556, eff.
17 9-11-05; revised 8-19-05.)

18 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

19 Sec. 5-8-1. Sentence of Imprisonment for Felony.

20 (a) Except as otherwise provided in the statute defining
21 the offense, a sentence of imprisonment for a felony shall be a
22 determinate sentence set by the court under this Section,
23 according to the following limitations:

24 (1) for first degree murder,

25 (a) a term shall be not less than 20 years and not
26 more than 60 years, or

27 (b) if a trier of fact finds beyond a reasonable
28 doubt that the murder was accompanied by exceptionally
29 brutal or heinous behavior indicative of wanton
30 cruelty or, except as set forth in subsection (a)(1)(c)
31 of this Section, that any of the aggravating factors
32 listed in subsection (b) of Section 9-1 of the Criminal
33 Code of 1961 are present, the court may sentence the
34 defendant to a term of natural life imprisonment, or

35 (c) the court shall sentence the defendant to a

1 term of natural life imprisonment when the death
2 penalty is not imposed if the defendant,

3 (i) has previously been convicted of first
4 degree murder under any state or federal law, or

5 (ii) is a person who, at the time of the
6 commission of the murder, had attained the age of
7 17 or more and is found guilty of murdering an
8 individual under 12 years of age; or, irrespective
9 of the defendant's age at the time of the
10 commission of the offense, is found guilty of
11 murdering more than one victim, or

12 (iii) is found guilty of murdering a peace
13 officer, fireman, or emergency management worker
14 when the peace officer, fireman, or emergency
15 management worker was killed in the course of
16 performing his official duties, or to prevent the
17 peace officer or fireman from performing his
18 official duties, or in retaliation for the peace
19 officer, fireman, or emergency management worker
20 from performing his official duties, and the
21 defendant knew or should have known that the
22 murdered individual was a peace officer, fireman,
23 or emergency management worker, or

24 (iv) is found guilty of murdering an employee
25 of an institution or facility of the Department of
26 Corrections, or any similar local correctional
27 agency, when the employee was killed in the course
28 of performing his official duties, or to prevent
29 the employee from performing his official duties,
30 or in retaliation for the employee performing his
31 official duties, or

32 (v) is found guilty of murdering an emergency
33 medical technician - ambulance, emergency medical
34 technician - intermediate, emergency medical
35 technician - paramedic, ambulance driver or other
36 medical assistance or first aid person while

1 employed by a municipality or other governmental
2 unit when the person was killed in the course of
3 performing official duties or to prevent the
4 person from performing official duties or in
5 retaliation for performing official duties and the
6 defendant knew or should have known that the
7 murdered individual was an emergency medical
8 technician - ambulance, emergency medical
9 technician - intermediate, emergency medical
10 technician - paramedic, ambulance driver, or other
11 medical assistant or first aid personnel, or

12 (vi) is a person who, at the time of the
13 commission of the murder, had not attained the age
14 of 17, and is found guilty of murdering a person
15 under 12 years of age and the murder is committed
16 during the course of aggravated criminal sexual
17 assault, criminal sexual assault, or aggravated
18 kidnaping, or

19 (vii) is found guilty of first degree murder
20 and the murder was committed by reason of any
21 person's activity as a community policing
22 volunteer or to prevent any person from engaging in
23 activity as a community policing volunteer. For
24 the purpose of this Section, "community policing
25 volunteer" has the meaning ascribed to it in
26 Section 2-3.5 of the Criminal Code of 1961.

27 For purposes of clause (v), "emergency medical
28 technician - ambulance", "emergency medical technician
29 - intermediate", "emergency medical technician -
30 paramedic", have the meanings ascribed to them in the
31 Emergency Medical Services (EMS) Systems Act.

32 (d) (i) if the person committed the offense while
33 armed with a firearm, 15 years shall be added to
34 the term of imprisonment imposed by the court;

35 (ii) if, during the commission of the offense,
36 the person personally discharged a firearm, 20

1 years shall be added to the term of imprisonment
2 imposed by the court;

3 (iii) if, during the commission of the
4 offense, the person personally discharged a
5 firearm that proximately caused great bodily harm,
6 permanent disability, permanent disfigurement, or
7 death to another person, 25 years or up to a term
8 of natural life shall be added to the term of
9 imprisonment imposed by the court.

10 (1.5) for second degree murder, a term shall be not
11 less than 4 years and not more than 20 years;

12 (2) for a person adjudged a habitual criminal under
13 Article 33B of the Criminal Code of 1961, as amended, the
14 sentence shall be a term of natural life imprisonment;

15 (2.5) for a person convicted under the circumstances
16 described in paragraph (3) of subsection (b) of Section
17 12-13, paragraph (2) of subsection (d) of Section 12-14,
18 paragraph (1.2) of subsection (b) of Section 12-14.1, or
19 paragraph (2) of subsection (b) of Section 12-14.1 of the
20 Criminal Code of 1961, the sentence shall be a term of
21 natural life imprisonment;

22 (3) except as otherwise provided in the statute
23 defining the offense, for a Class X felony, the sentence
24 shall be not less than 6 years and not more than 30 years;

25 (4) for a Class 1 felony, other than second degree
26 murder, the sentence shall be not less than 4 years and not
27 more than 15 years;

28 (5) for a Class 2 felony, the sentence shall be not
29 less than 3 years and not more than 7 years;

30 (6) for a Class 3 felony, the sentence shall be not
31 less than 2 years and not more than 5 years;

32 (7) for a Class 4 felony, the sentence shall be not
33 less than 1 year and not more than 3 years.

34 (b) The sentencing judge in each felony conviction shall
35 set forth his reasons for imposing the particular sentence he
36 enters in the case, as provided in Section 5-4-1 of this Code.

1 Those reasons may include any mitigating or aggravating factors
2 specified in this Code, or the lack of any such circumstances,
3 as well as any other such factors as the judge shall set forth
4 on the record that are consistent with the purposes and
5 principles of sentencing set out in this Code.

6 (c) A motion to reduce a sentence may be made, or the court
7 may reduce a sentence without motion, within 30 days after the
8 sentence is imposed. A defendant's challenge to the correctness
9 of a sentence or to any aspect of the sentencing hearing shall
10 be made by a written motion filed within 30 days following the
11 imposition of sentence. However, the court may not increase a
12 sentence once it is imposed.

13 If a motion filed pursuant to this subsection is timely
14 filed within 30 days after the sentence is imposed, the
15 proponent of the motion shall exercise due diligence in seeking
16 a determination on the motion and the court shall thereafter
17 decide such motion within a reasonable time.

18 If a motion filed pursuant to this subsection is timely
19 filed within 30 days after the sentence is imposed, then for
20 purposes of perfecting an appeal, a final judgment shall not be
21 considered to have been entered until the motion to reduce a
22 sentence has been decided by order entered by the trial court.

23 A motion filed pursuant to this subsection shall not be
24 considered to have been timely filed unless it is filed with
25 the circuit court clerk within 30 days after the sentence is
26 imposed together with a notice of motion, which notice of
27 motion shall set the motion on the court's calendar on a date
28 certain within a reasonable time after the date of filing.

29 (d) Except where a term of natural life is imposed, every
30 sentence shall include as though written therein a term in
31 addition to the term of imprisonment. For those sentenced under
32 the law in effect prior to February 1, 1978, such term shall be
33 identified as a parole term. For those sentenced on or after
34 February 1, 1978, such term shall be identified as a mandatory
35 supervised release term. Subject to earlier termination under
36 Section 3-3-8, the parole or mandatory supervised release term

1 shall be as follows:

2 (1) for first degree murder or a Class X felony except
3 for the offenses of predatory criminal sexual assault of a
4 child, aggravated criminal sexual assault, and criminal
5 sexual assault if committed on or after the effective date
6 of this amendatory Act of the 94th General Assembly, 3
7 years;

8 (2) for a Class 1 felony or a Class 2 felony except for
9 the offense of criminal sexual assault if committed on or
10 after the effective date of this amendatory Act of the 94th
11 General Assembly, 2 years;

12 (3) for a Class 3 felony or a Class 4 felony, 1 year;

13 (4) for defendants who commit the offense of predatory
14 criminal sexual assault of a child, aggravated criminal
15 sexual assault, or criminal sexual assault, on or after the
16 effective date of this amendatory Act of the 94th General
17 Assembly, the term of mandatory supervised release shall
18 range from a minimum of 3 years to a maximum of the natural
19 life of the defendant;

20 (5) if the victim is under 18 years of age, for a
21 second or subsequent offense of aggravated criminal sexual
22 abuse or felony criminal sexual abuse, 4 years, at least
23 the first 2 years of which the defendant shall serve in an
24 electronic home detention program under Article 8A of
25 Chapter V of this Code.

26 (e) A defendant who has a previous and unexpired sentence
27 of imprisonment imposed by another state or by any district
28 court of the United States and who, after sentence for a crime
29 in Illinois, must return to serve the unexpired prior sentence
30 may have his sentence by the Illinois court ordered to be
31 concurrent with the prior sentence in the other state. The
32 court may order that any time served on the unexpired portion
33 of the sentence in the other state, prior to his return to
34 Illinois, shall be credited on his Illinois sentence. The other
35 state shall be furnished with a copy of the order imposing
36 sentence which shall provide that, when the offender is

1 released from confinement of the other state, whether by parole
2 or by termination of sentence, the offender shall be
3 transferred by the Sheriff of the committing county to the
4 Illinois Department of Corrections. The court shall cause the
5 Department of Corrections to be notified of such sentence at
6 the time of commitment and to be provided with copies of all
7 records regarding the sentence.

8 (f) A defendant who has a previous and unexpired sentence
9 of imprisonment imposed by an Illinois circuit court for a
10 crime in this State and who is subsequently sentenced to a term
11 of imprisonment by another state or by any district court of
12 the United States and who has served a term of imprisonment
13 imposed by the other state or district court of the United
14 States, and must return to serve the unexpired prior sentence
15 imposed by the Illinois Circuit Court may apply to the court
16 which imposed sentence to have his sentence reduced.

17 The circuit court may order that any time served on the
18 sentence imposed by the other state or district court of the
19 United States be credited on his Illinois sentence. Such
20 application for reduction of a sentence under this subsection
21 (f) shall be made within 30 days after the defendant has
22 completed the sentence imposed by the other state or district
23 court of the United States.

24 (Source: P.A. 94-165, eff. 7-11-05; 94-243, eff. 1-1-06;
25 94-715, eff. 12-13-05.)

26 ARTICLE II. AMENDATORY PROVISIONS

27 Section 2-5. The Juvenile Court Act of 1987 is amended by
28 changing Section 2-13.1 as follows:

29 (705 ILCS 405/2-13.1)

30 Sec. 2-13.1. Early termination of reasonable efforts.

31 (1) (a) In conjunction with, or at any time subsequent to,
32 the filing of a petition on behalf of a minor in accordance
33 with Section 2-13 of this Act, the State's Attorney, the

1 guardian ad litem, or the Department of Children and Family
2 Services may file a motion requesting a finding that reasonable
3 efforts to reunify that minor with his or her parent or parents
4 are no longer required and are to cease.

5 (b) The court shall grant this motion with respect to a
6 parent of the minor if the court finds after a hearing that the
7 parent has:

8 (i) had his or her parental rights to another child of
9 the parent involuntarily terminated; or

10 (ii) been convicted of:

11 (A) first degree or second degree murder of any
12 ~~another~~ child of the parent;

13 (B) (blank); ~~attempt or conspiracy to commit first~~
14 ~~degree or second degree murder of another child of the~~
15 ~~parent;~~

16 (C) (blank); ~~solicitation to commit murder of~~
17 ~~another child of the parent, solicitation to commit~~
18 ~~murder for hire of another child of the parent, or~~
19 ~~solicitation to commit second degree murder of another~~
20 ~~child of the parent;~~

21 (D) aggravated battery, aggravated battery of a
22 child, ~~or~~ felony domestic battery, aggravated domestic
23 battery, or heinous battery, any of which has resulted
24 in serious bodily injury to the minor or another child
25 of the parent; or

26 (D-1) predatory criminal sexual assault of a child
27 if the victim is the minor or another child of the
28 parent;

29 (D-2) female genital mutilation of a child if the
30 victim is the minor or another child of the parent;

31 ((D-3) attempt, conspiracy, or solicitation to
32 commit any of the above offenses;

33 (D-4) solicitation to commit murder of any child of
34 the parent, solicitation to commit murder for hire of
35 any child of the parent, or solicitation to commit
36 second degree murder of any child of the parent;

1 (E) an offense in any other state the elements of
2 which are similar and bear substantial relationship to
3 any of the foregoing offenses unless the court sets
4 forth in writing a compelling reason why terminating
5 reasonable efforts to reunify the minor with the parent
6 would not be in the best interests of that minor.

7 (c) The court shall also grant this motion with respect to
8 a parent of the minor if:

9 (i) after a hearing it determines that further
10 reunification services would no longer be appropriate, and

11 (ii) a dispositional hearing has already taken place.

12 (2) (a) The court shall hold a permanency hearing within 30
13 days of granting a motion pursuant to this subsection. If an
14 adjudicatory or a dispositional hearing, or both, has not taken
15 place when the court grants a motion pursuant to this Section,
16 then either or both hearings shall be held as needed so that
17 both take place on or before the date a permanency hearing is
18 held pursuant to this subsection.

19 (b) Following a permanency hearing held pursuant to
20 paragraph (a) of this subsection, the appointed custodian or
21 guardian of the minor shall make reasonable efforts to place
22 the child in accordance with the permanency plan and goal set
23 by the court, and to complete the necessary steps to locate and
24 finalize a permanent placement.

25 (Source: P.A. 90-608, eff. 6-30-98.)

26 Section 2-10. The Criminal Code of 1961 is amended by
27 changing Sections 12-3.2 and 12-30 as follows:

28 (720 ILCS 5/12-3.2) (from Ch. 38, par. 12-3.2)

29 Sec. 12-3.2. Domestic Battery.

30 (a) A person commits domestic battery if he intentionally
31 or knowingly without legal justification by any means:

32 (1) Causes bodily harm to any family or household
33 member as defined in subsection (3) of Section 112A-3 of
34 the Code of Criminal Procedure of 1963, as amended;

1 (2) Makes physical contact of an insulting or provoking
2 nature with any family or household member as defined in
3 subsection (3) of Section 112A-3 of the Code of Criminal
4 Procedure of 1963, as amended.

5 (b) Sentence. Domestic battery is a Class A misdemeanor.
6 Domestic battery is a Class 4 felony if the defendant has any
7 prior conviction under this Code for any of the following
8 offenses when any of these offenses have been committed against
9 a family or household member as defined in Section 112A-3 of
10 the Code of Criminal Procedure of 1963:

- 11 (i) domestic battery (Section 12-3.2), ~~or~~
12 (ii) violation of an order of protection (Section
13 12-30), ~~or any prior conviction under the law of another~~
14 ~~jurisdiction for an offense which is substantially~~
15 ~~similar. Domestic battery is a Class 4 felony if the~~
16 ~~defendant has any prior conviction under this Code~~
17 (iii) for first degree murder (Section 9-1),
18 (iv) attempt to commit first degree murder (Section
19 8-4),
20 (v) aggravated domestic battery (Section 12-3.3),
21 (vi) aggravated battery (Section 12-4),
22 (vii) heinous battery (Section 12-4.1),
23 (viii) aggravated battery with a firearm (Section
24 12-4.2),
25 (ix) aggravated battery of a child (Section 12-4.3),
26 (x) aggravated battery of an unborn child (Section
27 12-4.4),
28 (xi) aggravated battery of a senior citizen (Section
29 12-4.6),
30 (xii) stalking (Section 12-7.3),
31 (xiii) cyberstalking (Section 12-7.5),
32 (xiv) aggravated stalking (Section 12-7.4),
33 (xv) criminal sexual assault (Section 12-13), or
34 (xvi) aggravated criminal sexual assault (12-14),
35 (xvii) kidnapping (Section 10-1),
36 (xviii) aggravated kidnapping (Section 10-2),

1 (xix) predatory criminal sexual assault of a child
2 (Section 12-14.1),

3 (xx) aggravated criminal sexual abuse (Section 12-16),

4 (xxi) unlawful restraint (Section 10-3),

5 (xxii) aggravated unlawful restraint (Section 10-3.1),

6 (xxiii) aggravated arson (Section 20-1.1), ~~or~~

7 (xxiv) aggravated discharge of a firearm (Section
8 24-1.2), or

9 (xxv) home invasion (Section 12-11), or

10 (xxvi) any prior conviction under the law of another
11 jurisdiction for any offense that is substantially similar
12 to the offenses listed in this Section, ~~when any of these~~
13 ~~offenses have been committed against a family or household~~
14 ~~member as defined in Section 112A-3 of the Code of Criminal~~
15 ~~Procedure of 1963.~~

16 In addition to any other sentencing alternatives, for any
17 second or subsequent conviction of violating this Section, the
18 offender shall be mandatorily sentenced to a minimum of 72
19 consecutive hours of imprisonment. The imprisonment shall not
20 be subject to suspension, nor shall the person be eligible for
21 probation in order to reduce the sentence.

22 (c) Domestic battery committed in the presence of a child.
23 In addition to any other sentencing alternatives, a defendant
24 who commits, in the presence of a child, a felony domestic
25 battery (enhanced under subsection (b)), aggravated domestic
26 battery (Section 12-3.3), aggravated battery (Section 12-4),
27 unlawful restraint (Section 10-3), or aggravated unlawful
28 restraint (Section 10-3.1) against a family or household
29 member, as defined in Section 112A-3 of the Code of Criminal
30 Procedure of 1963, shall be required to serve a mandatory
31 minimum imprisonment of 10 days or perform 300 hours of
32 community service, or both. The defendant shall further be
33 liable for the cost of any counseling required for the child at
34 the discretion of the court in accordance with subsection (b)
35 of Section 5-5-6 of the Unified Code of Corrections. For
36 purposes of this Section, "child" means a person under 18 years

1 of age who is the defendant's or victim's child or step-child
2 or who is a minor child residing within or visiting the
3 household of the defendant or victim. For purposes of this
4 Section, "in the presence of a child" means in the physical
5 presence of a child or knowing or having reason to know that a
6 child is present and may see or hear an act constituting one of
7 the offenses listed in this subsection.

8 (Source: P.A. 93-336, eff. 1-1-04; 93-809, eff. 1-1-05; 94-148,
9 eff. 1-1-06.)

10 (720 ILCS 5/12-30) (from Ch. 38, par. 12-30)

11 Sec. 12-30. Violation of an order of protection.

12 (a) A person commits violation of an order of protection
13 if:

14 (1) He or she commits an act which was prohibited by a
15 court or fails to commit an act which was ordered by a
16 court in violation of:

17 (i) a remedy in a valid order of protection
18 authorized under paragraphs (1), (2), (3), (14), or
19 (14.5) of subsection (b) of Section 214 of the Illinois
20 Domestic Violence Act of 1986,

21 (ii) a remedy, which is substantially similar to
22 the remedies authorized under paragraphs (1), (2),
23 (3), (14) or (14.5) of subsection (b) of Section 214 of
24 the Illinois Domestic Violence Act of 1986, in a valid
25 order of protection, which is authorized under the laws
26 of another state, tribe or United States territory,

27 (iii) any other remedy when the act constitutes a
28 crime against the protected parties as the term
29 protected parties is defined in Section 112A-4 of the
30 Code of Criminal Procedure of 1963; and

31 (2) Such violation occurs after the offender has been
32 served notice of the contents of the order, pursuant to the
33 Illinois Domestic Violence Act of 1986 or any substantially
34 similar statute of another state, tribe or United States
35 territory, or otherwise has acquired actual knowledge of

1 the contents of the order.

2 An order of protection issued by a state, tribal or
3 territorial court related to domestic or family violence shall
4 be deemed valid if the issuing court had jurisdiction over the
5 parties and matter under the law of the state, tribe or
6 territory. There shall be a presumption of validity where an
7 order is certified and appears authentic on its face.

8 (a-5) Failure to provide reasonable notice and opportunity
9 to be heard shall be an affirmative defense to any charge or
10 process filed seeking enforcement of a foreign order of
11 protection.

12 (b) For purposes of this Section, an "order of protection"
13 may have been issued in a criminal or civil proceeding.

14 (c) Nothing in this Section shall be construed to diminish
15 the inherent authority of the courts to enforce their lawful
16 orders through civil or criminal contempt proceedings.

17 (d) Violation of an order of protection under subsection
18 (a) of this Section is a Class A misdemeanor. Violation of an
19 order of protection under subsection (a) of this Section is a
20 Class 4 felony if the defendant has any prior conviction for
21 any of the following offenses when these offenses have been
22 committed against a family or household member as defined in
23 Section 112A-3 of the Code of Criminal Procedure of 1963: ~~under~~
24 this Code

25 (i) for domestic battery (720 ILCS 5/ ~~Section~~ 12-3.2),
26 ~~or~~

27 (ii) violation of an order of protection (720 ILCS
28 5/~~Section~~ 12-30), ~~. Violation of an order of protection is~~
29 ~~a Class 4 felony if the defendant has any prior conviction~~
30 ~~under this Code for~~

31 (iii) first degree murder (720 ILCS 5/~~Section~~ 9-1),

32 (iv) attempt to commit first degree murder (Section
33 8-4),

34 (v) aggravated domestic battery (720 ILCS 5/~~Section~~
35 12-3.3),

36 (vi) aggravated battery (720 ILCS 5/~~Section~~ 12-4),

1 (vii) heinous battery (720 ILCS 5/~~Section~~ 12-4.1),
2 (viii) aggravated battery with a firearm (720 ILCS
3 5/~~Section~~ 12-4.2),
4 (ix) aggravated battery of a child (720 ILCS 5/~~Section~~
5 12-4.3),
6 (x) aggravated battery of an unborn child (720 ILCS
7 5/~~Section~~ 12-4.4),
8 (xi) aggravated battery of a senior citizen ((720 ILCS
9 5/~~Section~~ 12-4.6),
10 (xii) stalking ((720 ILCS 5/~~Section~~ 12-7.3),
11 (xiii) cyberstalking (720 ILCS 5/12-7.5),
12 (xiv) aggravated stalking (720 ILCS 5/~~Section~~ 12-7.4),
13 (xv) criminal sexual assault (720 ILCS 5/~~Section~~
14 12-13),
15 (xvi) aggravated criminal sexual assault (12-14),
16 (xvii) kidnapping (720 ILCS 5/~~Section~~ 10-1),
17 (xviii) aggravated kidnapping (720 ILCS 5/~~Section~~
18 10-2),
19 (xix) predatory criminal sexual assault of a child (720
20 ILCS 5/~~Section~~ 12-14.1),
21 (xx) aggravated criminal sexual abuse ((720 ILCS
22 5/~~Section~~ 12-16),
23 (xxi) unlawful restraint (720 ILCS 5/~~Section~~ 10-3),
24 (xxii) aggravated unlawful restraint (720 ILCS
25 5/~~Section~~ 10-3.1),
26 (xxiii) aggravated arson (720 ILCS 5/~~Section~~ 20-1.1),
27 (xxiv) or aggravated discharge of a firearm (720 ILCS
28 5/~~Section~~ 24-1.2),
29 (xxvi) telephone harassment or harassment through
30 electronic communications, if the prior conviction is a
31 felony (720 ILCS 135/2(b)),
32 (xxvii) home invasion (720 ILCS 5/12-11), or
33 (xxviii) any offense in any other state the elements of
34 which are similar and bear a substantial relationship to
35 any of the foregoing offenses.
36 ~~when any of these offenses have been committed against~~

1 ~~a family or household member as defined in Section 112A-3~~
2 ~~of the Code of Criminal Procedure of 1963.~~ The court shall
3 impose a minimum penalty of 24 hours imprisonment for
4 defendant's second or subsequent violation of any order of
5 protection; unless the court explicitly finds that an
6 increased penalty or such period of imprisonment would be
7 manifestly unjust. In addition to any other penalties, the
8 court may order the defendant to pay a fine as authorized
9 under Section 5-9-1 of the Unified Code of Corrections or
10 to make restitution to the victim under Section 5-5-6 of
11 the Unified Code of Corrections. In addition to any other
12 penalties, including those imposed by Section 5-9-1.5 of
13 the Unified Code of Corrections, the court shall impose an
14 additional fine of \$20 as authorized by Section 5-9-1.11 of
15 the Unified Code of Corrections upon any person convicted
16 of or placed on supervision for a violation of this
17 Section. The additional fine shall be imposed for each
18 violation of this Section.

19 (e) The limitations placed on law enforcement liability by
20 Section 305 of the Illinois Domestic Violence Act of 1986 apply
21 to actions taken under this Section.

22 (Source: P.A. 91-112, eff. 10-1-99; 91-357, eff. 7-29-99;
23 92-827, eff. 8-22-02.)

24 Section 2-15. The Harassing and Obscene Communications Act
25 is amended by changing Section 2 as follows:

26 (720 ILCS 135/2) (from Ch. 134, par. 16.5)

27 Sec. 2. Sentence.

28 (a) Except as provided in subsection (b), a person who
29 violates any of the provisions of Section 1, 1-1, or 1-2 of
30 this Act is guilty of a Class B misdemeanor. Except as provided
31 in subsection (b), a second or subsequent violation of Section
32 1, 1-1, or 1-2 of this Act is a Class A misdemeanor, for which
33 the court shall impose a minimum of 14 days in jail or, if
34 public or community service is established in the county in

1 which the offender was convicted, 240 hours of public or
2 community service.

3 (b) In any of the following circumstances, a person who
4 violates Section 1, 1-1, or 1-2 of this Act shall be guilty of
5 a Class 4 felony:

6 (1) The person has 3 or more prior violations in the
7 last 10 years of harassment by telephone under Section 1-1
8 of this Act, harassment through electronic communications
9 under Section 1-2 of this Act, or any similar offense of
10 any state;

11 (2) The person has previously violated the harassment
12 by telephone provisions of Section 1-1 of this Act or the
13 harassment through electronic communications provisions of
14 Section 1-2 of this Act or committed any similar offense in
15 any state with the same victim or a member of the victim's
16 family or household;

17 (3) At the time of the offense, the offender was under
18 conditions of bail, probation, mandatory supervised
19 release or was the subject of an order of protection, in
20 this or any other state, prohibiting contact with the
21 victim or any member of the victim's family or household;

22 (4) In the course of the offense, the offender
23 threatened to kill the victim or any member of the victim's
24 family or household;

25 (5) The person has been convicted in the last 10 years
26 of a forcible felony as defined in Section 2-8 of the
27 Criminal Code of 1961; or

28 (6) The person violates paragraph (4.1) of Section 1-1
29 or paragraph (3.1) of subsection (a) of Section 1-2.

30 (7) The person has a prior conviction for:

31 (i) violation of an order of protection (720 ILCS
32 5/12-30);

33 (ii) stalking (720 ILCS 5/12-7.3);

34 (iii) aggravated stalking (720 ILCS 5/12-7.4);

35 (iv) cyberstalking (720 ILCS 5/12-7.5);

36 (v) home invasion, when the victim was a family or

1 household member as defined in Section 112A-3 of the
2 Code of Criminal Procedure of 1963; or
3 (iv) any offense in any other state the elements of
4 which are similar and bear a substantial relationship
5 to any of the foregoing offenses.

6 (Source: P.A. 90-578, eff. 6-1-98; 91-878, eff. 1-1-01.)

7 Section 2-20 The Code of Criminal Procedure of 1963 is
8 amended by changing Sections 115-7 and 115-10.2 as follows:

9 (725 ILCS 5/115-7) (from Ch. 38, par. 115-7)

10 Sec. 115-7. a. In prosecutions for

11 (i) predatory criminal sexual assault of a child,

12 (ii) aggravated criminal sexual assault,

13 (iii) criminal sexual assault,

14 (iv) aggravated criminal sexual abuse,

15 (v) criminal sexual abuse, ~~or~~

16 (vi) criminal transmission of HIV, ~~and in prosecutions~~
17 ~~for~~

18 (vii) battery and aggravated battery, when the commission
19 of the offense involves sexual penetration or sexual conduct as
20 defined in Section 12-12 of the Criminal Code of 1961, ~~and~~
21 ~~with the trial or retrial of~~

22 (viii) the offenses formerly known as rape, deviate sexual
23 assault, indecent liberties with a child, and aggravated
24 indecent liberties with a child,

25 (ix) solicitation, conspiracy, or attempt to commit any of
26 the foregoing offenses,

27 the prior sexual activity or the reputation of the alleged
28 victim or corroborating witness under Section 115-7.3 of this
29 Code is inadmissible except (1) as evidence concerning the past
30 sexual conduct of the alleged victim or corroborating witness
31 under Section 115-7.3 of this Code with the accused when this
32 evidence is offered by the accused upon the issue of whether
33 the alleged victim or corroborating witness under Section
34 115-7.3 of this Code consented to the sexual conduct with

1 respect to which the offense is alleged; or (2) when
2 constitutionally required to be admitted.

3 b. No evidence admissible under this Section shall be
4 introduced unless ruled admissible by the trial judge after an
5 offer of proof has been made at a hearing to be held in camera
6 in order to determine whether the defense has evidence to
7 impeach the witness in the event that prior sexual activity
8 with the defendant is denied. Such offer of proof shall include
9 reasonably specific information as to the date, time and place
10 of the past sexual conduct between the alleged victim or
11 corroborating witness under Section 115-7.3 of this Code and
12 the defendant. Unless the court finds that reasonably specific
13 information as to date, time or place, or some combination
14 thereof, has been offered as to prior sexual activity with the
15 defendant, counsel for the defendant shall be ordered to
16 refrain from inquiring into prior sexual activity between the
17 alleged victim or corroborating witness under Section 115-7.3
18 of this Code and the defendant. The court shall not admit
19 evidence under this Section unless it determines at the hearing
20 that the evidence is relevant and the probative value of the
21 evidence outweighs the danger of unfair prejudice. The evidence
22 shall be admissible at trial to the extent an order made by the
23 court specifies the evidence that may be admitted and areas
24 with respect to which the alleged victim or corroborating
25 witness under Section 115-7.3 of this Code may be examined or
26 cross examined.

27 c. This amendatory Act of the 94th General Assembly is
28 declarative of existing law.

29 (Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96;
30 90-132, eff. 1-1-98.)

31 (725 ILCS 5/115-10.2)

32 Sec. 115-10.2. Admissibility of prior statements when
33 witness refused to testify despite a court order to testify.

34 (a) A statement not specifically covered by any other
35 hearsay exception but having equivalent circumstantial

1 guarantees of trustworthiness, is not excluded by the hearsay
2 rule if the declarant is unavailable as defined in subsection
3 (c) and if the court determines that:

4 (1) the statement is offered as evidence of a material
5 fact; and

6 (2) the statement is more probative on the point for
7 which it is offered than any other evidence which the
8 proponent can procure through reasonable efforts; and

9 (3) the general purposes of this Section and the
10 interests of justice will best be served by admission of
11 the statement into evidence.

12 (b) A statement may not be admitted under this exception
13 unless the proponent of it makes known to the adverse party
14 sufficiently in advance of the trial or hearing to provide the
15 adverse party with a fair opportunity to prepare to meet it,
16 the proponent's intention to offer the statement, and the
17 particulars of the statement, including the name and address of
18 the declarant.

19 (c) Unavailability as a witness is limited to the situation
20 in which the declarant persists in refusing to testify
21 concerning the subject matter of the declarant's statement
22 despite an order of the court to do so.

23 (d) A declarant is not unavailable as a witness if
24 exemption, refusal, claim or lack of memory, inability or
25 absence is due to the procurement or wrongdoing of the
26 proponent of a statement for purpose of preventing the witness
27 from attending or testifying.

28 (e) Nothing in this Section shall render a prior statement
29 inadmissible for purposes of impeachment because the statement
30 was not recorded or otherwise fails to meet the criteria set
31 forth in this Section.

32 (f) Prior statements of a testimonial nature are admissible
33 under this Section only if the statements were made under oath
34 and were subject to cross-examination by the adverse party in a
35 prior trial, hearing, or other proceeding.

36 (g) This Amendatory Act of the 94th General Assembly is

1 declarative of existing law.

2 (Source: P.A. 93-413, eff. 8-5-03; 93-443, eff. 8-5-03; 94-53,
3 eff. 6-17-05.)

4 Section 2-25. The Adoption Act is amended by changing
5 Section 1 as follows:

6 (750 ILCS 50/1) (from Ch. 40, par. 1501)

7 Sec. 1. Definitions. When used in this Act, unless the
8 context otherwise requires:

9 A. "Child" means a person under legal age subject to
10 adoption under this Act.

11 B. "Related child" means a child subject to adoption where
12 either or both of the adopting parents stands in any of the
13 following relationships to the child by blood or marriage:
14 parent, grand-parent, brother, sister, step-parent,
15 step-grandparent, step-brother, step-sister, uncle, aunt,
16 great-uncle, great-aunt, or cousin of first degree. A child
17 whose parent has executed a final irrevocable consent to
18 adoption or a final irrevocable surrender for purposes of
19 adoption, or whose parent has had his or her parental rights
20 terminated, is not a related child to that person, unless the
21 consent is determined to be void or is void pursuant to
22 subsection O of Section 10.

23 C. "Agency" for the purpose of this Act means a public
24 child welfare agency or a licensed child welfare agency.

25 D. "Unfit person" means any person whom the court shall
26 find to be unfit to have a child, without regard to the
27 likelihood that the child will be placed for adoption. The
28 grounds of unfitness are any one or more of the following,
29 except that a person shall not be considered an unfit person
30 for the sole reason that the person has relinquished a child in
31 accordance with the Abandoned Newborn Infant Protection Act:

32 (a) Abandonment of the child.

33 (a-1) Abandonment of a newborn infant in a hospital.

34 (a-2) Abandonment of a newborn infant in any setting

1 where the evidence suggests that the parent intended to
2 relinquish his or her parental rights.

3 (b) Failure to maintain a reasonable degree of
4 interest, concern or responsibility as to the child's
5 welfare.

6 (c) Desertion of the child for more than 3 months next
7 preceding the commencement of the Adoption proceeding.

8 (d) Substantial neglect of the child if continuous or
9 repeated.

10 (d-1) Substantial neglect, if continuous or repeated,
11 of any child residing in the household which resulted in
12 the death of that child.

13 (e) Extreme or repeated cruelty to the child.

14 (f) Two or more findings of physical abuse to any
15 children under Section 4-8 of the Juvenile Court Act or
16 Section 2-21 of the Juvenile Court Act of 1987, the most
17 recent of which was determined by the juvenile court
18 hearing the matter to be supported by clear and convincing
19 evidence; a criminal conviction or a finding of not guilty
20 by reason of insanity resulting from the death of any child
21 by physical child abuse; or a finding of physical child
22 abuse resulting from the death of any child under Section
23 4-8 of the Juvenile Court Act or Section 2-21 of the
24 Juvenile Court Act of 1987.

25 (g) Failure to protect the child from conditions within
26 his environment injurious to the child's welfare.

27 (h) Other neglect of, or misconduct toward the child;
28 provided that in making a finding of unfitness the court
29 hearing the adoption proceeding shall not be bound by any
30 previous finding, order or judgment affecting or
31 determining the rights of the parents toward the child
32 sought to be adopted in any other proceeding except such
33 proceedings terminating parental rights as shall be had
34 under either this Act, the Juvenile Court Act or the
35 Juvenile Court Act of 1987.

36 (i) Depravity. Conviction of any one of the following

1 crimes shall create a presumption that a parent is deprived
2 which can be overcome only by clear and convincing
3 evidence: (1) first degree murder in violation of paragraph
4 1 or 2 of subsection (a) of Section 9-1 of the Criminal
5 Code of 1961 or conviction of second degree murder in
6 violation of subsection (a) of Section 9-2 of the Criminal
7 Code of 1961 of a parent of the child to be adopted; (2)
8 first degree murder or second degree murder of any child in
9 violation of the Criminal Code of 1961; (3) (blank);
10 ~~attempt or conspiracy to commit first degree murder or~~
11 ~~second degree murder of any child in violation of the~~
12 ~~Criminal Code of 1961;~~ (4) (blank); solicitation to commit
13 ~~murder of any child, solicitation to commit murder of any~~
14 ~~child for hire, or solicitation to commit second degree~~
15 ~~murder of any child in violation of the Criminal Code of~~
16 ~~1961; or~~ (5) aggravated criminal sexual assault in
17 violation of Section 12-14(b)(1) of the Criminal Code of
18 1961; (6) heinous battery of any child; (7) predatory
19 criminal sexual assault of a child; (8) female genital
20 mutilation of any child; (9) solicitation, conspiracy, or
21 attempt to commit any of the above offenses listed in this
22 clause (i); or (10) solicitation to commit murder of any
23 child, or solicitation to commit murder of any child for
24 hire.

25 There is a rebuttable presumption that a parent is
26 deprived if the parent has been criminally convicted of at
27 least 3 felonies under the laws of this State or any other
28 state, or under federal law, or the criminal laws of any
29 United States territory; and at least one of these
30 convictions took place within 5 years of the filing of the
31 petition or motion seeking termination of parental rights.

32 There is a rebuttable presumption that a parent is
33 deprived if that parent has been criminally convicted of
34 either first or second degree murder of any person as
35 defined in the Criminal Code of 1961 within 10 years of the
36 filing date of the petition or motion to terminate parental

1 rights.

2 (j) Open and notorious adultery or fornication.

3 (j-1) (Blank).

4 (k) Habitual drunkenness or addiction to drugs, other
5 than those prescribed by a physician, for at least one year
6 immediately prior to the commencement of the unfitness
7 proceeding.

8 There is a rebuttable presumption that a parent is
9 unfit under this subsection with respect to any child to
10 which that parent gives birth where there is a confirmed
11 test result that at birth the child's blood, urine, or
12 meconium contained any amount of a controlled substance as
13 defined in subsection (f) of Section 102 of the Illinois
14 Controlled Substances Act or metabolites of such
15 substances, the presence of which in the newborn infant was
16 not the result of medical treatment administered to the
17 mother or the newborn infant; and the biological mother of
18 this child is the biological mother of at least one other
19 child who was adjudicated a neglected minor under
20 subsection (c) of Section 2-3 of the Juvenile Court Act of
21 1987.

22 (l) Failure to demonstrate a reasonable degree of
23 interest, concern or responsibility as to the welfare of a
24 new born child during the first 30 days after its birth.

25 (m) Failure by a parent (i) to make reasonable efforts
26 to correct the conditions that were the basis for the
27 removal of the child from the parent, or (ii) to make
28 reasonable progress toward the return of the child to the
29 parent within 9 months after an adjudication of neglected
30 or abused minor under Section 2-3 of the Juvenile Court Act
31 of 1987 or dependent minor under Section 2-4 of that Act,
32 or (iii) to make reasonable progress toward the return of
33 the child to the parent during any 9-month period after the
34 end of the initial 9-month period following the
35 adjudication of neglected or abused minor under Section 2-3
36 of the Juvenile Court Act of 1987 or dependent minor under

1 Section 2-4 of that Act. If a service plan has been
2 established as required under Section 8.2 of the Abused and
3 Neglected Child Reporting Act to correct the conditions
4 that were the basis for the removal of the child from the
5 parent and if those services were available, then, for
6 purposes of this Act, "failure to make reasonable progress
7 toward the return of the child to the parent" includes (I)
8 the parent's failure to substantially fulfill his or her
9 obligations under the service plan and correct the
10 conditions that brought the child into care within 9 months
11 after the adjudication under Section 2-3 or 2-4 of the
12 Juvenile Court Act of 1987 and (II) the parent's failure to
13 substantially fulfill his or her obligations under the
14 service plan and correct the conditions that brought the
15 child into care during any 9-month period after the end of
16 the initial 9-month period following the adjudication
17 under Section 2-3 or 2-4 of the Juvenile Court Act of 1987.
18 Notwithstanding any other provision, when a petition or
19 motion seeks to terminate parental rights on the basis of
20 item (iii) of this subsection (m), the petitioner shall
21 file with the court and serve on the parties a pleading
22 that specifies the 9-month period or periods relied on. The
23 pleading shall be filed and served on the parties no later
24 than 3 weeks before the date set by the court for closure
25 of discovery, and the allegations in the pleading shall be
26 treated as incorporated into the petition or motion.
27 Failure of a respondent to file a written denial of the
28 allegations in the pleading shall not be treated as an
29 admission that the allegations are true.

30 (m-1) Pursuant to the Juvenile Court Act of 1987, a
31 child has been in foster care for 15 months out of any 22
32 month period which begins on or after the effective date of
33 this amendatory Act of 1998 unless the child's parent can
34 prove by a preponderance of the evidence that it is more
35 likely than not that it will be in the best interests of
36 the child to be returned to the parent within 6 months of

1 the date on which a petition for termination of parental
2 rights is filed under the Juvenile Court Act of 1987. The
3 15 month time limit is tolled during any period for which
4 there is a court finding that the appointed custodian or
5 guardian failed to make reasonable efforts to reunify the
6 child with his or her family, provided that (i) the finding
7 of no reasonable efforts is made within 60 days of the
8 period when reasonable efforts were not made or (ii) the
9 parent filed a motion requesting a finding of no reasonable
10 efforts within 60 days of the period when reasonable
11 efforts were not made. For purposes of this subdivision
12 (m-1), the date of entering foster care is the earlier of:
13 (i) the date of a judicial finding at an adjudicatory
14 hearing that the child is an abused, neglected, or
15 dependent minor; or (ii) 60 days after the date on which
16 the child is removed from his or her parent, guardian, or
17 legal custodian.

18 (n) Evidence of intent to forgo his or her parental
19 rights, whether or not the child is a ward of the court,
20 (1) as manifested by his or her failure for a period of 12
21 months: (i) to visit the child, (ii) to communicate with
22 the child or agency, although able to do so and not
23 prevented from doing so by an agency or by court order, or
24 (iii) to maintain contact with or plan for the future of
25 the child, although physically able to do so, or (2) as
26 manifested by the father's failure, where he and the mother
27 of the child were unmarried to each other at the time of
28 the child's birth, (i) to commence legal proceedings to
29 establish his paternity under the Illinois Parentage Act of
30 1984 or the law of the jurisdiction of the child's birth
31 within 30 days of being informed, pursuant to Section 12a
32 of this Act, that he is the father or the likely father of
33 the child or, after being so informed where the child is
34 not yet born, within 30 days of the child's birth, or (ii)
35 to make a good faith effort to pay a reasonable amount of
36 the expenses related to the birth of the child and to

1 provide a reasonable amount for the financial support of
2 the child, the court to consider in its determination all
3 relevant circumstances, including the financial condition
4 of both parents; provided that the ground for termination
5 provided in this subparagraph (n)(2)(ii) shall only be
6 available where the petition is brought by the mother or
7 the husband of the mother.

8 Contact or communication by a parent with his or her
9 child that does not demonstrate affection and concern does
10 not constitute reasonable contact and planning under
11 subdivision (n). In the absence of evidence to the
12 contrary, the ability to visit, communicate, maintain
13 contact, pay expenses and plan for the future shall be
14 presumed. The subjective intent of the parent, whether
15 expressed or otherwise, unsupported by evidence of the
16 foregoing parental acts manifesting that intent, shall not
17 preclude a determination that the parent has intended to
18 forgo his or her parental rights. In making this
19 determination, the court may consider but shall not require
20 a showing of diligent efforts by an authorized agency to
21 encourage the parent to perform the acts specified in
22 subdivision (n).

23 It shall be an affirmative defense to any allegation
24 under paragraph (2) of this subsection that the father's
25 failure was due to circumstances beyond his control or to
26 impediments created by the mother or any other person
27 having legal custody. Proof of that fact need only be by a
28 preponderance of the evidence.

29 (o) Repeated or continuous failure by the parents,
30 although physically and financially able, to provide the
31 child with adequate food, clothing, or shelter.

32 (p) Inability to discharge parental responsibilities
33 supported by competent evidence from a psychiatrist,
34 licensed clinical social worker, or clinical psychologist
35 of mental impairment, mental illness or mental retardation
36 as defined in Section 1-116 of the Mental Health and

1 Developmental Disabilities Code, or developmental
2 disability as defined in Section 1-106 of that Code, and
3 there is sufficient justification to believe that the
4 inability to discharge parental responsibilities shall
5 extend beyond a reasonable time period. However, this
6 subdivision (p) shall not be construed so as to permit a
7 licensed clinical social worker to conduct any medical
8 diagnosis to determine mental illness or mental
9 impairment.

10 (q) The parent has been criminally convicted of
11 aggravated battery, heinous battery, or attempted murder
12 of any child.

13 (r) The child is in the temporary custody or
14 guardianship of the Department of Children and Family
15 Services, the parent is incarcerated as a result of
16 criminal conviction at the time the petition or motion for
17 termination of parental rights is filed, prior to
18 incarceration the parent had little or no contact with the
19 child or provided little or no support for the child, and
20 the parent's incarceration will prevent the parent from
21 discharging his or her parental responsibilities for the
22 child for a period in excess of 2 years after the filing of
23 the petition or motion for termination of parental rights.

24 (s) The child is in the temporary custody or
25 guardianship of the Department of Children and Family
26 Services, the parent is incarcerated at the time the
27 petition or motion for termination of parental rights is
28 filed, the parent has been repeatedly incarcerated as a
29 result of criminal convictions, and the parent's repeated
30 incarceration has prevented the parent from discharging
31 his or her parental responsibilities for the child.

32 (t) A finding that at birth the child's blood, urine,
33 or meconium contained any amount of a controlled substance
34 as defined in subsection (f) of Section 102 of the Illinois
35 Controlled Substances Act, or a metabolite of a controlled
36 substance, with the exception of controlled substances or

1 metabolites of such substances, the presence of which in
2 the newborn infant was the result of medical treatment
3 administered to the mother or the newborn infant, and that
4 the biological mother of this child is the biological
5 mother of at least one other child who was adjudicated a
6 neglected minor under subsection (c) of Section 2-3 of the
7 Juvenile Court Act of 1987, after which the biological
8 mother had the opportunity to enroll in and participate in
9 a clinically appropriate substance abuse counseling,
10 treatment, and rehabilitation program.

11 E. "Parent" means the father or mother of a lawful child of
12 the parties or child born out of wedlock. For the purpose of
13 this Act, a person who has executed a final and irrevocable
14 consent to adoption or a final and irrevocable surrender for
15 purposes of adoption, or whose parental rights have been
16 terminated by a court, is not a parent of the child who was the
17 subject of the consent or surrender, unless the consent is void
18 pursuant to subsection O of Section 10.

19 F. A person is available for adoption when the person is:

20 (a) a child who has been surrendered for adoption to an
21 agency and to whose adoption the agency has thereafter
22 consented;

23 (b) a child to whose adoption a person authorized by
24 law, other than his parents, has consented, or to whose
25 adoption no consent is required pursuant to Section 8 of
26 this Act;

27 (c) a child who is in the custody of persons who intend
28 to adopt him through placement made by his parents;

29 (c-1) a child for whom a parent has signed a specific
30 consent pursuant to subsection O of Section 10;

31 (d) an adult who meets the conditions set forth in
32 Section 3 of this Act; or

33 (e) a child who has been relinquished as defined in
34 Section 10 of the Abandoned Newborn Infant Protection Act.

35 A person who would otherwise be available for adoption
36 shall not be deemed unavailable for adoption solely by reason

1 of his or her death.

2 G. The singular includes the plural and the plural includes
3 the singular and the "male" includes the "female", as the
4 context of this Act may require.

5 H. "Adoption disruption" occurs when an adoptive placement
6 does not prove successful and it becomes necessary for the
7 child to be removed from placement before the adoption is
8 finalized.

9 I. "Foreign placing agency" is an agency or individual
10 operating in a country or territory outside the United States
11 that is authorized by its country to place children for
12 adoption either directly with families in the United States or
13 through United States based international agencies.

14 J. "Immediate relatives" means the biological parents, the
15 parents of the biological parents and siblings of the
16 biological parents.

17 K. "Intercountry adoption" is a process by which a child
18 from a country other than the United States is adopted.

19 L. "Intercountry Adoption Coordinator" is a staff person of
20 the Department of Children and Family Services appointed by the
21 Director to coordinate the provision of services by the public
22 and private sector to prospective parents of foreign-born
23 children.

24 M. "Interstate Compact on the Placement of Children" is a
25 law enacted by most states for the purpose of establishing
26 uniform procedures for handling the interstate placement of
27 children in foster homes, adoptive homes, or other child care
28 facilities.

29 N. "Non-Compact state" means a state that has not enacted
30 the Interstate Compact on the Placement of Children.

31 O. "Preadoption requirements" are any conditions
32 established by the laws or regulations of the Federal
33 Government or of each state that must be met prior to the
34 placement of a child in an adoptive home.

35 P. "Abused child" means a child whose parent or immediate
36 family member, or any person responsible for the child's

1 welfare, or any individual residing in the same home as the
2 child, or a paramour of the child's parent:

3 (a) inflicts, causes to be inflicted, or allows to be
4 inflicted upon the child physical injury, by other than
5 accidental means, that causes death, disfigurement,
6 impairment of physical or emotional health, or loss or
7 impairment of any bodily function;

8 (b) creates a substantial risk of physical injury to
9 the child by other than accidental means which would be
10 likely to cause death, disfigurement, impairment of
11 physical or emotional health, or loss or impairment of any
12 bodily function;

13 (c) commits or allows to be committed any sex offense
14 against the child, as sex offenses are defined in the
15 Criminal Code of 1961 and extending those definitions of
16 sex offenses to include children under 18 years of age;

17 (d) commits or allows to be committed an act or acts of
18 torture upon the child; or

19 (e) inflicts excessive corporal punishment.

20 Q. "Neglected child" means any child whose parent or other
21 person responsible for the child's welfare withholds or denies
22 nourishment or medically indicated treatment including food or
23 care denied solely on the basis of the present or anticipated
24 mental or physical impairment as determined by a physician
25 acting alone or in consultation with other physicians or
26 otherwise does not provide the proper or necessary support,
27 education as required by law, or medical or other remedial care
28 recognized under State law as necessary for a child's
29 well-being, or other care necessary for his or her well-being,
30 including adequate food, clothing and shelter; or who is
31 abandoned by his or her parents or other person responsible for
32 the child's welfare.

33 A child shall not be considered neglected or abused for the
34 sole reason that the child's parent or other person responsible
35 for his or her welfare depends upon spiritual means through
36 prayer alone for the treatment or cure of disease or remedial

1 care as provided under Section 4 of the Abused and Neglected
2 Child Reporting Act. A child shall not be considered neglected
3 or abused for the sole reason that the child's parent or other
4 person responsible for the child's welfare failed to vaccinate,
5 delayed vaccination, or refused vaccination for the child due
6 to a waiver on religious or medical grounds as permitted by
7 law.

8 R. "Putative father" means a man who may be a child's
9 father, but who (1) is not married to the child's mother on or
10 before the date that the child was or is to be born and (2) has
11 not established paternity of the child in a court proceeding
12 before the filing of a petition for the adoption of the child.
13 The term includes a male who is less than 18 years of age.
14 "Putative father" does not mean a man who is the child's father
15 as a result of criminal sexual abuse or assault as defined
16 under Article 12 of the Criminal Code of 1961.

17 S. "Standby adoption" means an adoption in which a parent
18 consents to custody and termination of parental rights to
19 become effective upon the occurrence of a future event, which
20 is either the death of the parent or the request of the parent
21 for the entry of a final judgment of adoption.

22 T. (Blank).

23 (Source: P.A. 93-732, eff. 1-1-05; 94-229, eff. 1-1-06; 94-563,
24 eff. 1-1-06; revised 8-23-05.)